

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 1942.02  
 COMPLAINT INVESTIGATOR: Sandie Scudder  
 DATE OF COMPLAINT: August 21, 2002  
 DATE OF REPORT: September 20, 2002  
 REQUEST FOR RECONSIDERATION: no  
 DATE OF CLOSURE: January 6, 2003

**COMPLAINT ISSUES:**

Whether the Gary Community Schools violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to utilize large print books and closed circuit television (CCTV) daily; and
- b. failing to provide extended school year (ESY) services.

511 IAC 7-21-7(d) by requiring the parent of a student with a disability to provide transportation for the student.

**FINDINGS OF FACT:**

1. The student (Student) is 9 years old, and is eligible for special education and related services as a student with a visual impairment. The Student attends a catchnet school in order to access the visually impaired program, and spends most of the instructional day in a resource room.
2. The Complainant alleges that the School did not provide the Student with large print texts, or daily access to the CCTV during the 2001-2002 school year. Page 5 of the February 1, 2002, IEP documents that the Student will use "large print materials and CCTV." Large print materials and CCTV are listed as required modifications/accommodations. The February 1, 2002, IEP does not specify the frequency or length of time the Student is to access the CCTV.
3. The School reports that the Student used large print texts for reading during the 2001-2002 school year in social studies and math. A language book was hand-copied to "reduce some exercises due to the student's pace." Evaluations consisted of observations, and oral or large print tests.
4. The teacher of record (TOR) for the 2001-2002 school year states that the Student participated in the *Success For All Reading Program*, and was provided large print booklets for School and home. Regular size print booklets were provided for the Complainant to assist the Student when studying. The Complainant acknowledges that the School sent home booklets for the Student to use, but approximately only five of them were large print.
5. The School states that the Student used the CCTV for spelling, and extra worksheets that needed to be enlarged. The TOR states that there was one CCTV in the resource room until January 2002, when a

second CCTV was added. The TOR affirms that there were six students in the resource room who used the CCTV; however, the Student accessed the CCTV most frequently.

6. The Complainant further alleges that the Student has not been provided with the required large print texts, or a CCTV for the 2002-2003 school year. The Teacher of Service (TOS) for the 2002-2003 school year stated that the Student has two large print texts for math and social studies. The resource room contains two older CCTVs, and one new CCTV. The first day of school was August 28, 2002, and as of September 12, 2002, none of the CCTVs were in working order.
7. The Complainant alleges that the Student did not receive ESY during the 2002 summer. The IEP dated February 1, 2002, documents that ESY was recommended by the CCC in order to "maintain skills/reinforce skills." The ESY was to be a second grade level program meeting 5 days a week for 4 weeks. The School reports that the CCC interpreted ESY as a "summer school program." The School states the CCC recommendation was based on the premise that summer school would be offered to 2<sup>nd</sup> graders through 5<sup>th</sup> graders. Summer school was not offered at the Student's home school, and offered only to 4<sup>th</sup> graders at the Student's attending school.
8. During the 2001-2002 school year, the Student's assigned school bus would not stop at the Student's residence due to a difficult turn-a-round. At the request of the bus driver, the Complainant was transporting the Student to a designated location in order for the Student to access the bus to school. This school year, 2002-2003, the complainant is to have the Student at the designated location at 6:45 a.m. The school bus did not arrive until 7:00 or 7:15 a.m. The Complainant chose to take the Student to school to avoid being late to work. The letter of response dated August 29, 2002, states: "Bus transportation has been provided for this student and bus transportation would have followed if he had attended a summer school program." The Complainant has not been reimbursed for mileage. The IEP dated February 1, 2002, documents transportation as a related service.

## **CONCLUSIONS:**

1. Findings of Fact #2, #3, #4, #5, and #6 indicate that the School supplied large print texts, modified materials, and provided a CCTV for the Student while at school. The Student was provided some large print booklets for home use. However, according to the TOS, the Student has not had access to a CCTV for the 2002-2003 school year, and has been provided with only two large print textbooks. The TOS stated that the Student requires specialized materials to enable the Student to benefit from the educational program. Therefore, a violation of 511 IAC 7-27-7(a) is found regarding the School failing to provide the Student with specialized educational materials.
2. Finding of Fact #7 establishes that the School failed to provide the Student with ESY services as required by the February 1, 2002, IEP. Therefore, a violation of 511 IAC 7-27-7(a) is found regarding the School failing to provide the Student with ESY services.
3. Finding of Fact #8 reflects that the complainant is providing transportation in order for the Student to meet the school bus. The parent of a student cannot be required to provide transportation, unless the parent agrees, and the School reimburses the parent for mileage. Therefore, a violation of 511 IAC 7-21-7(d) is found.

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

## **CORRECTIVE ACTION:**

The Gary Community Schools shall:

1. Convene the CCC and determine the amount of compensatory services to be delivered to the Student to compensate for failing to provide the Student with ESY services during the summer of 2002, and for failing to provide the Student with specialized educational materials as required by the IEP at the start of the 2002-2003 school year, and how the compensatory services will be provided to the Student. **A copy of the CCC Report stating how the compensatory services shall be delivered, by whom, and the amount of compensatory services the Student will receive shall be submitted to the Division no later than October 18, 2002. A copy of the list of the special materials/equipment to be provided to the Student, and a receipt showing these items have been purchased and paid for, shall be submitted to the Division no later than November 31, 2002. An assurance letter including a statement that the CCTV's in the resource room are in working order and can be assessed by the Student when needed shall be submitted to the Division no later than October 18, 2002.**
2. Conduct an in-service with the director of Transportation and all bus drivers transporting disabled students to and from school to present information regarding the state law that enables all disabled students to free transportation to and from school. Attendees shall be given the appropriate pages from Article 7 that address the transportation requirements when transporting disabled students. **A copy of the agenda along with the signatures of the attendees shall be submitted to the Division no later than October 31, 2002.**
3. Reimburse the Complainant for transporting the Student to School in lieu of adequate school transportation being provided to the Student. The Complainant shall submit a statement of mileage for providing transportation for the Student. Reimbursement shall be at no less than the per mile rate at which employees of the school are reimbursed. If the School and the Complainant disagree on the mileage claimed, that issue would then be subject to a due process hearing. **A copy of the check received by the Complainant, both front and back, shall be submitted to the Division no later than October 31, 2002. If the School and the Complainant cannot agree on the mileage claim, the School shall notify the Division to assign an independent hearing officer to resolve the issue.**